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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/548,727	04/13/2000	Johan C. Talstra	PHN-17.410	7176

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PHILIPS INTELLECTUAL PROPERTY & STANDARDS
P.O. BOX 3001
BRIARCLIFF MANOR, NY 10510

EXAMINER

BOCCIO, VINCENT F

ART UNIT	PAPER NUMBER
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2616

DATE MAILED: 01/31/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action Before the Filing of an Appeal Brief	Application No. 09/548,727	Applicant(s) TALSTRA ET AL.	
	Examiner Vincent F. Boccio	Art Unit 2616	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 11/1/06 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☐ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
- Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
- (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ They raise the issue of new matter (see NOTE below);
- (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. ☐ Applicant's reply has overcome the following rejection(s): _____.

6. ☒ Newly proposed or amended claim(s) 5 would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: None.

Claim(s) objected to: 5.

Claim(s) rejected: 1-4 and 6-12.

Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).


10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Attached.

12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s): _____.

13. ☐ Other: _____.


 Vincent F. Boccio
 Primary Examiner
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DETAILED ACTION

Response to Arguments Presented After Final

{A} In re page 8, applicant states, "The final action asserts the term watermark can be a physical watermark on the carrier that is transferred: which reads on transmitted and even derives. The rejection claims define subject matter for first and second characteristics of the content on the information carrier that are independently derived and compared. The examiner seeks to add these elements to the cited references.

In response, applicant has not addressed the definition of derived as previously presented by the examiner, therefore, is non responsive to the examiner, to the scope of the word derived, for the record there is no question derived is met, by the physical watermark, since physical, those skilled in the art realize that it would require scanning of the physical watermark to derive, after scanning it is transmitted to the comparator element 53. The other watermark is derived by the MPEG decoder and also is transmitted to the comparator 53 to stop transmission, clearly set forth many times in this case.

For the record again the word, derive means, "to obtain from a specified source".

Is the physical watermark on the media from a specific source, as claimed???

The word transmit, according to Webster, means "to send".

Is physical watermark sent to the comparator 53 to be compared, with a derived watermark from the MPEG decoder which is also, transmitted or sent to the comparator 53 of not why ??

Can the two derived watermarks, be considered to be independent obtained or derived, with respect of each other, when one of from the MPEG decoder, the other is a means such as to image a physical watermark ??

Further in accord to the Abstract, such as a physical mark on the carrier or can be in the alternative the control signal, therefore, being provided with a control signal, from a source of some kind or not, please explain or derived?

{B} In re page 8, applicant states, "The position taken in the rejection is that the disclosure by Linnartz for the electronic

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signatures anticipates the deriving of the first and second characteristics of the content as well the comparison of the first and second characteristics of the content.

For the record, the examine had never relied upon signatures, but, was merely reciting verbatim the wording in the reference, where the examiner does not appreciate putting words in the examiner's mouth to somehow come up with an argument against patentability.

Watermarks are compared at comparator 53, one derived from the MPEG decoder and the other derived from the media being physical, therefore, from sources, and was obtained from the disk, as a source, the deriving is not the same means, therefore the deriving means, is different and not the same and is therefore, independent of each other, as is clear to the examiner and to those skilled in the art (page 10, "compare a ... watermark with a physical mark", wherein the physical mark is the watermark, compared by comparator 53 is Fig. 5 both watermarks or characteristics are from the media, one being physical and the other is embedded in the stream send to the decoder, which sends it back to the comparator for comparison, as is clear to the examiner).

{C} In re page 9, applicant states, "Therefore, any comparison within Linnartz is not a comparison of first and second characteristics of the content contained on the information carrier."

In response, does Linnartz, OBTAIN and send, a watermark from the MPEG decoder to the comparator?

Is the physical watermark on the media?

Is the watermark sent back from the MPEG decoder was also originally, on the media?

Is the physical watermark obtained from the media and the other from the MPEG decoder both sent to the comparator 53 or not?

If not what is the reference doing???

If not what is the comparator comparing??????????????

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The examiner must answer yes to all questions and further the watermarks are obtained independently and are derived and transmitted to the comparator 53 for comparing, because there are different means to derive or obtain the information, these means are different and independent, as claimed.

No arguments presented are deemed persuasive, the examiner would appreciate applicant to read the reference and identify the teachings provided in light of the claim language used, based on the scope of the language used, which determines the scope of the claims.

The claims are read in light of the specification, but the specification is not in the claims, the scope of the claims is determined based on the language used in the claims.

The claim language used in the claims fails to be distinguishable over the art applied.

The examiner does not see anything associated with amending associated with transmitting and comparison to overcome the prior art.

The examiner recommend to further amend to the details associated with the claimed, "deriving", from the specification to overcome Linnartz, with respect to the deriving step, if it is possible, without adding new matter.

Contact Fax Information


Any response to this action should be faxed to:

(571) 273-8300, for communication as intended for entry,
this Central Fax Number as of 7/15/05

Contact Information

Any inquiry concerning this communication or earlier communications should be directed to the examiner of record, Monday-Tuesday & Thursday-Friday, 8:00 AM to 5:00 PM Vincent F. Boccio (571) 272-7373.

Primary Examiner, Boccio, Vincent
1/26/06


VINCENT BOCCIO
PRIMARY EXAMINER